



Senate

General Assembly

February Session, 2016

File No. 632

Senate Bill No. 350

Senate, April 14, 2016

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE APPOINTMENT OF FAMILY SUPPORT MAGISTRATES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (f) and (g) of section 46b-231 of the 2016
2 supplement to the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective January 1, 2017*):

4 (f) (1) (A) The Family Support Magistrate Division shall include nine
5 family support magistrates who shall, (i) prior to January 1, 2017, be
6 appointed by the Governor to serve in that capacity for a term of three
7 years, and (ii) on and after January 1, 2017, be nominated by the
8 Governor and appointed by the General Assembly to serve in that
9 capacity for a term of four years, except that each family support
10 magistrate serving on December 31, 2016, shall continue to serve in
11 that capacity on and after January 1, 2017, until the expiration of such
12 magistrate's three-year term, unless removed from office pursuant to
13 this subsection, and shall continue to serve after the expiration of such
14 three-year term until a successor is appointed or the family support

15 magistrate's nomination has failed to be approved in accordance with
16 this subsection. A family support magistrate may be [reappointed by
17 the Governor upon completion of each term of office] nominated by
18 the Governor for reappointment.

19 (B) To be eligible for [appointment,] nomination as a family support
20 magistrate, [must] a person shall have engaged in the practice of law
21 for five years prior to appointment and [shall] be experienced in the
22 field of family law. The family support magistrate shall devote full
23 time to the duties of a family support magistrate and shall not engage
24 in the private practice of law. A family support magistrate may be
25 removed from office by the Governor for cause and is subject to
26 admonishment, censure, suspension and removal from office as
27 provided in chapter 872a.

28 (2) Each nomination made by the Governor to the General
29 Assembly for a family support magistrate shall be referred, without
30 debate, to the committee on the judiciary, which shall report thereon
31 within thirty legislative days from the time of reference, but not later
32 than seven legislative days before the adjourning of the General
33 Assembly.

34 (3) Each appointment of a family support magistrate shall be by
35 concurrent resolution. The action on the passage of each such
36 resolution in the House of Representatives and in the Senate shall be
37 by vote taken on the electrical roll-call device. No resolution shall
38 contain the name of more than one nominee. The Governor shall,
39 within five days after the Governor has notice that any family support
40 magistrate nomination has failed to be approved by the affirmative
41 concurrent action of both houses of the General Assembly, make
42 another nomination to such office.

43 (4) Notwithstanding the provisions of section 4-19, no vacancy in
44 the position of a family support magistrate shall be filled by the
45 Governor when the General Assembly is not in session unless, prior to
46 such filling, the Governor submits the name of the proposed vacancy
47 appointee to the committee on the judiciary. Within forty-five days, the

48 committee on the judiciary may, upon the call of either chairperson,
49 hold a special meeting for the purpose of approving or disapproving
50 such proposed vacancy appointee by majority vote. The Governor
51 shall not administer the oath of office to such proposed vacancy
52 appointee until the committee has approved such proposed vacancy
53 appointee. If the committee determines that it cannot complete its
54 investigation and act on such proposed vacancy appointee within such
55 forty-five-day period, it may extend such period by an additional
56 fifteen days. The committee shall notify the Governor in writing of any
57 such extension. Failure of the committee to act on such proposed
58 vacancy appointee within such forty-five-day period or any fifteen-day
59 extension period shall be deemed to be an approval.

60 (5) Prior to a public hearing on a family support magistrate, the
61 committee on the judiciary may employ a person to investigate, at the
62 request of the chairpersons of said committee, any family support
63 magistrate nominee with respect to the suitability of such nominee for
64 magisterial office. Such investigator shall report his or her findings to
65 said committee and any such report shall be confidential and shall not
66 be subject to public disclosure. Such person shall receive such
67 compensation as may be fixed by the Joint Committee on Legislative
68 Management for each day such person is engaged in his or her duties
69 as an investigator.

70 (g) A Chief Family Support Magistrate shall be designated by the
71 Chief Court Administrator of the Superior Court from among the nine
72 family support magistrates appointed [by the Governor] pursuant to
73 subsection (f) of this section, except that the Chief Family Support
74 Magistrate serving in that capacity on December 31, 2016, shall
75 continue to serve in that capacity on and after January 1, 2017, until the
76 expiration of such family support magistrate's term, unless a successor
77 is designated by the Chief Court Administrator or such family support
78 magistrate is removed from office pursuant to subsection (f) of this
79 section or such family support magistrate's nomination has failed to be
80 approved in accordance with subsection (f) of this section. Under the
81 direction of the Chief Court Administrator, the Chief Family Support

82 Magistrate shall supervise the Family Support Magistrate Division and
83 submit an annual report to the Chief Court Administrator and perform
84 such other duties as provided in this section.

85 Sec. 2. Subsection (b) of section 51-51q of the general statutes is
86 repealed and the following is substituted in lieu thereof (*Effective*
87 *January 1, 2017*):

88 (b) The Judicial Review Council shall submit its recommendations
89 concerning the nomination for reappointment of any family support
90 magistrate whose term of office is about to expire, including a report of
91 any investigation of any such family support magistrate by the council,
92 to the Governor and to the joint standing committee of the General
93 Assembly having cognizance of matters relating to the judiciary. The
94 Judicial Review Council shall provide information to said committee
95 concerning any complaint filed against such family support magistrate
96 and the investigation and disposition of such complaint, including, but
97 not limited to, confidential information, in the same manner and
98 subject to the same requirements as information provided under
99 subdivisions (1) and (2) of subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2017</i>	46b-231(f) and (g)
Sec. 2	<i>January 1, 2017</i>	51-51q(b)

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which changes the approval process for family support magistrates, does not result in a cost to the state or municipalities as it is anticipated that legislative approval of the positions will occur during regular session.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 350*****AN ACT CONCERNING THE APPOINTMENT OF FAMILY SUPPORT MAGISTRATES.*****SUMMARY:**

This bill changes, starting January 1, 2017, the way family support magistrates are selected by requiring the (1) governor to nominate them, rather than appoint them, and (2) legislature to approve the governor's nominations in the same way it currently approves judges. It increases the term of a family support magistrate from three to four years. It allows currently serving family support magistrates to complete their terms unless they are removed from office. Family support magistrates establish and enforce child and spousal support orders.

The bill requires the Judicial Review Council, which currently provides the governor with recommendations on the reappointment of family support magistrates, to (1) submit recommendations on the nomination of family support magistrates to the governor and to the Judiciary Committee and (2) provide the committee with information on complaints about family support magistrates in the same way it currently does for judges. The bill also makes conforming changes.

EFFECTIVE DATE: January 1, 2017

APPOINTMENT PROCEDURE AND TERMS

The bill requires, starting January 1, 2017, the governor to nominate and the legislature to appoint, nine family support magistrates to serve four-year terms. Under current law, the governor appoints nine family support magistrates to serve three-year terms without legislative approval.

Under the bill, family support magistrates serving on December 31, 2016 continue to serve until their three-year terms expire, unless they are removed from office as the bill provides. They must continue to serve after their terms expire until (1) a successor is appointed or (2) the legislature does not approve their reappointment.

The bill allows the governor to nominate a family support magistrate for reappointment. Under current law, he may reappoint a family support magistrate.

By law, unchanged by the bill, (1) the governor may remove a family support magistrate for cause and (2) family support magistrates are subject to the same admonishment, censure, suspension, and removal procedures as judges (CGS §§ 51-51h et seq., see BACKGROUND).

Nomination and Approval Process

Under the bill, the legislature must refer each of the governor's nominees for family support magistrate to the Judiciary Committee, without debate. The committee must report on a nomination to the House and Senate (1) within 30 legislative days of referral and (2) at least seven legislative days before the legislature adjourns (see BACKGROUND). This is the same procedure the law provides for the nomination of judges (CGS § 2-40).

Each nomination must be made by a separate resolution, and the House and Senate must each vote on each nominee by a roll call vote. The governor must submit another nomination to the legislature within five days after he has been notified that a nominee has failed to win the approval of both chambers.

Filling Interim Vacancies

As under current law for the appointment of judges, the bill prohibits the governor, regardless of another law on interim appointments, from filling any vacancy for a family support magistrate when the legislature is not in session, unless he first submits the name of the proposed nominee to the Judiciary Committee. The committee,

on the call of either chairperson, may hold a special meeting within 45 days to approve or disapprove the nominee by a majority vote.

If the committee finds it cannot complete its investigation (see below) and act on the proposed appointment within the 45-day period, it may extend the period by 15 days and must notify the governor, in writing, that it is doing so.

The bill bars the governor from administering the oath of office to anyone the committee has not approved, but, as under current law for judges, the bill deems a nominee approved if the committee fails to act on the nomination within either the 45-day period or any 15-day extension.

Investigation of Nominees

As with judges, before a public hearing on a family support magistrate, the Judiciary Committee may, at the chairpersons' request, hire someone to investigate the suitability of a nominee for the position. The investigator must report his or her findings to the committee. The report is confidential and not subject to public disclosure. The investigator must be paid an amount determined by the Legislative Management Committee for each day of the investigation.

CHIEF FAMILY SUPPORT MAGISTRATE

By law, the chief magistrate is appointed by the chief court administrator to supervise the family support magistrate division, submit an annual report to the chief court administrator, and perform other duties as required by law. The bill requires that the chief family support magistrate serving in that capacity on December 31, 2016 continue serving until his or her term expires, unless (1) the chief court administrator designates a successor, or (2) he or she (a) is removed from office, as the bill provides, or (b) fails to win legislative approval under the bill.

JUDICIAL REVIEW COUNCIL

Under current law, the Judicial Review Council submits to the

governor its recommendations on the reappointment of a family support magistrate whose term is about to expire.

Under the bill, the council must instead submit, to both the governor and the Judiciary Committee, its recommendations on the governor's nomination for reappointment of such a family support magistrate. The council must also provide information to the committee on (1) any complaint filed against a family support magistrate and (2) the investigation and disposition of the complaint, including any confidential information, in the same way it already provides this information for the reappointment of judges to the governor, the committee, and the Judicial Selection Commission.

BACKGROUND

Family Support Magistrates

By law, a family support magistrate must be experienced in family law and have practiced law for five years before appointment. A family support magistrate must devote full time to his or her duties as a magistrate and cannot engage in the private practice of law (CGS § 46b-231 (f)).

The governor may remove a family support magistrate for cause. A family support magistrate also is subject to censure or suspension for up to one year by the Judicial Review Council, and the council may recommend to the Supreme Court that a family support magistrate be suspended for more than one year or removed from office (CGS § 51-51n).

“Legislative Day”

Neither the statutes nor the legislature's Joint Rules define “legislative day.” However, according to Mason's Manual of Legislative Procedure, upon which both the House and Senate rely, a legislative day is any day that either chamber meets, whether in regular or technical session.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 45 Nay 0 (03/30/2016)